

REMARKS

Claims 6 and 9-18 were acted upon in the aforesaid Office Action. No claim has been cancelled and no new claim has been added, leaving claims 6 and 9-18 for further consideration.

Claims 6 and 9-18 stand rejected under 35 U.S.C. 103 (a) as unpatentable over Whelan (USP 5,918,604) in view of Mehdian (USP 5,092,868) and Clark (USP 5,266,075).

Claim 6 has been amended to limit the invention to "a flexible member for positioning the graft ligament in the first bone tunnel, said flexible member having a first closed loop at a first end thereof; and a second closed loop at a second end thereof, said flexible member being configurable into a generally U-shape with the first and second closed loops being thereby positionable adjacent each other and aligned with each other in the first bone tunnel; a delivery device having an end for releasably and simultaneously supporting the first and second loops of said flexible member in adjacency and in alignment with each other, and positioning the first and second loops in the first bone tunnel and in a second bone tunnel extending transversely to and intersecting the first bone tunnel; and a pulling member having an end insertable into the second bone tunnel for engaging and withdrawing a selected one of the ends of said flexible member..."

As noted by Examiner, Whelan lacks a flexible member with loops at each end thereof.

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With respect to amended claim 6, Whelan further appears to lack a pulling member insertable into a second bone tunnel for engaging and withdrawing a selected one of the ends of the flexible member.

While Mehdian shows the members, each having a loop at each end thereof, and the loop ends are adjacent each other and aligned with each other, the joined loops are both clamped by a keeper and are not adjacent each other and in alignment in the bone or in a bone tunnel, but rather externally to the bone. Also, in Mehdian there appears to be no pulling member having an end for engaging and withdrawing an end of a flexible member from a delivery device.

Aside from having a tie member having a loop at each end, Mehdian appears to be somewhat far afield from the Applicants' system, the latter relating to a system for securing a graft ligament in a bone tunnel and the former relating to a tie member for extension through a spinal column segment.

Clark appears to show a delivery device for a flexible member, but lacks the loops and lacks a pulling member as recited in Claim 6.

Accordingly, it appears that Claim 6 now stands well clear of the art and should be deemed allowable thereof.

Claims 7 and 9-17 depend directly or ultimately from Claim 6 and should be deemed allowable at least through dependency.

Claim 18, as amended, is limited to a delivery device "having means at one end for releasably and simultaneously supporting the first and second loops adjacent to one another and in alignment with each other" and a pulling member "having an end

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insertable into the second bone tunnel for engaging and for withdrawing a selected one of the loops from said delivery device...”.

It appears that Clark shows a delivery device for supporting a suture draped thereover, but it is not clear that the Clark delivery device suggests having means at one end for supporting first and second loops adjacent to one another and in alignment with each other. Clark is not concerned with releasably supporting a flexible member having first and second closed loops and therefore has no need for a delivery device having that capability.

Whelan also lacks such a delivery device and, further, lacks a pulling member having an end insertable into a transverse bone tunnel for engaging and withdrawing a flexible member loop.

Mehdian shows a tie member having a loop at each end thereof. But Mehdiian fails to disclose a delivery device and a pulling member insertable into a bone tunnel to engage and withdraw a loop from a delivery device. Further, while Whelan and Clark are in the knee surgery area, Mehdiian has to do with spinal disorders, particularly clamping spinal segments to a frame.

Examiner has held that the references all pertain to the “same field of endeavor.” Applicants respectfully point out that in an effort to improve knee surgery physicians are not of a mind to research spinal cord surgeries seeking answers to knee surgery problems. The references are, of course, in the “same field” meaning surgery, but within that broad category the Mehdiian reference stands apart from the Whelan and Clark references. Particularly, in view of the substantially narrowed claims now
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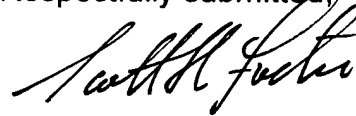
presented, Mehdiian does not appear to be pertinent, but even if considered pertinent, lacks a teaching or suggesting of a flexible member as set forth in the current claims.

In view thereof, it appears that claim 18 stands well clear of the references and should be deemed allowable thereover.

Allowance of claims 6 and 9-18 is therefore most respectfully requested.

In the event that any fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott R. Foster", written in a cursive style.

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